IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5817 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SAMUEL MUSABHAI CHAUHAN

Versus

MANAGER/PROPRIETOR CHAISE PRODUCTS

Appearance:

1. Special Civil Application No. 5817 of 1995

MR MH SHAIKH for Petitioner No. 1

MR RC PATHAK for Petitioner No. 1

Mr. DG Shukla for NANAVATI & NANAVATI for Respondent No. 1

MR DEVANG NANAVATI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 01/03/2004

ORAL JUDGEMENT

Heard learned advocate Mr. Pathak for the petitioner and Mr. Shukla for the respondents. In this petition, the petitioner has challenged the award made by the labour court Ahmedabad in Complaint No. 57 of 1981 in Demand Reference No. 91 of 1981 wherein the complaint has been dismissed by the labour court concerned.

Today when the matter was taken up for hearing, learned advocate Mr. P.H. Pathak submits as regards termination dated 22nd May, 1981 of the petitioner, the labour court has observed that the petitioner can approach the labour court under the machinery of section 10 of the ID Act, 1947 and, therefore, now the petitioner can avail that remedy by raising an industrial dispute under section 2A of the ID Act, 1947. He is, however, apprehending that in case if the dispute is raised by the petitioner now, the concerned Assistant Commissioner of Labour will raise objection about delay in raising of an industrial dispute and, therefore, some suitable observations may be made for enabling the petitioner to approach the labour court under sec. 10 of the ID Act

I have considered the submissions made by the learned advocates for the parties. When the petitioner desires to raise the industrial dispute against the alleged so called termination dated 22nd May, 1981 under sec. 10 of the ID Act, 1947 and on that basis, the petition can be disposed of accordingly but so far as the raising of dispute is concerned, such period might come in the way of the petitioner and, therefore, considering this fact that as such, there is no limitation prescribed under sec. 10 of the ID Act, 1947 for raising of an industrial dispute, normally it has to be raised within a reasonable period but looking to the peculiar facts and circumstances of the present case, as and when the dispute against the so called termination is raised by the petitioner workman, concerned Assistant Labour Commissioner has to take into consideration the period consumed by the workman in filing of the complaint upto the decision on the complaint and then the period for which the petition has remained pending before this court which, naturally, has to be taken into consideration by the authority concerned while considering the delay in raising of an industrial dispute. Therefore, considering this fact, from 1981 to 2004 period which has been spent by the petitioner may be taken into consideration while considering the question of delay and the dispute may be considered and to pass appropriate order in accordance with law within two months from the date of receipt of copy of the application from the petitioner under section 2(A) of the ID Act, 1947.

In view of these observations made by this Court, learned advocate Mr. Pathak appearing for the petitioner has not pressed this petition. This petition is accordingly disposed of with no order as to costs. Rule is discharged. IR if any shall stand vacated forthwith.

(H.K. Rathod,J.)

Vyas